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J One (1) DVD containing photographs of Deputies Jennifer Romero, #[redacted] Jacob Willison, #[redacted] Joseph Cisneros, #[redacted] California Highway Patrol Officers [redacted] and Witness [redacted]

K One (1) DVD containing Homicide Bureau's audio recorded interviews of Deputies John Strosnider, #[redacted] Jennifer Romero, Jacob Willison, Joseph Cisneros, Witnesses [redacted] and [redacted]

MISCELLANEOUS DOCUMENTS

Deputies Romero's and Strosnider's weapons training and P.O.S.T training records

East Los Angeles station's AM and PM shift In-Service dated Monday, September 24, 2018

East Los Angeles station unit 21A's deputy daily worksheet and unit history report dated September 24, 2018

Photocopies of the certified letter receipts

Shooting and Force Admonition forms



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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September 24, 2019

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Ivan Pena
J.S.I.D. File #18-0400
L.A.S.D. File #018-14036-0272-013

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 24, 2018, fatal shooting of Ivan Pena by Los Angeles County Sheriff's Department Deputy Jennifer Romero. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Jennifer Romero, #[redacted]



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MEMORANDUM

TO:	CAPTAIN KENT WEGENER Los Angeles County Sheriff's Department Homicide Bureau 1 Cupania Circle Monterey Park, California 91755
FROM:	JUSTICE SYSTEM INTEGRITY DIVISION Los Angeles County District Attorney's Office
SUBJECT:	Officer Involved Shooting of Ivan Pena J.S.I.D. File #18-0400 L.A.S.D. File #018-14036-0272-013
DATE:	September 24, 2019

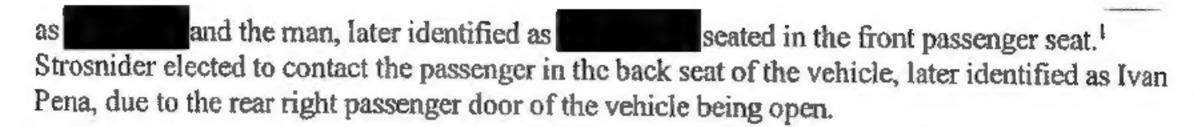
The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 24, 2018, fatal shooting of Ivan Pena by Los Angeles County Sheriff's Department (LASD) Deputy Jennifer Romero. We have concluded that Deputy Romero acted lawfully in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting at approximately 12:36 a.m., on September 25, 2018. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings of interviews, firearm analysis reports, the autopsy report, crime scene diagrams and sketches, photographs, video evidence, and witness statements submitted to this office by LASD Sergeants Michael Austin and Marcelo Quintero. The voluntary statements of all involved deputies were considered as part of this analysis.

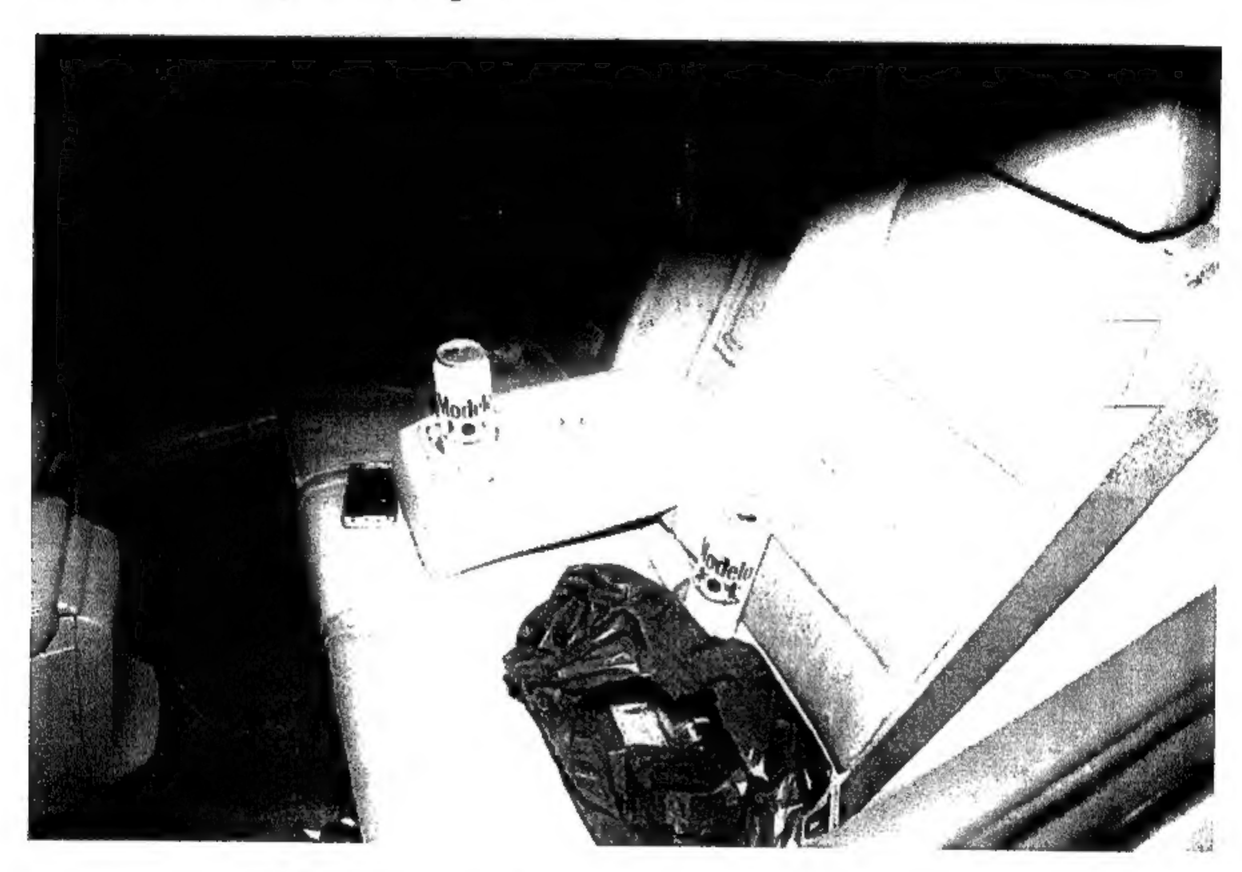
FACTUAL ANALYSIS

On September 24, 2018, at approximately 11:26 p.m., LASD East Los Angeles Station Deputies John Strosnider and Jennifer Romero were working patrol in a black and white LASD vehicle, wearing full LASD uniforms. While driving north on Meisner Street, they observed three individuals sitting in a 2009 Honda Accord, parked on the west side of the street facing south. Strosnider, who was driving the vehicle, stopped with his vehicle facing east to contact the individuals due to them looking "suspicious" to him. Both deputies exited their vehicle and made contact with the occupants. Romero contacted the woman seated in the driver's seat, later identified



as [redacted] and the man, later identified as [redacted] seated in the front passenger seat.[1] Strosnider elected to contact the passenger in the back seat of the vehicle, later identified as Ivan Pena, due to the rear right passenger door of the vehicle being open.

As Romero spoke to [redacted] she observed two open cans of beer in the backseat cup holders, and began to inquire whether [redacted] had been drinking. At the same time, Strosnider observed that Pena appeared to be intoxicated and saw the open containers in the vehicle. Strosnider ordered Pena out of the vehicle to conduct an investigation.



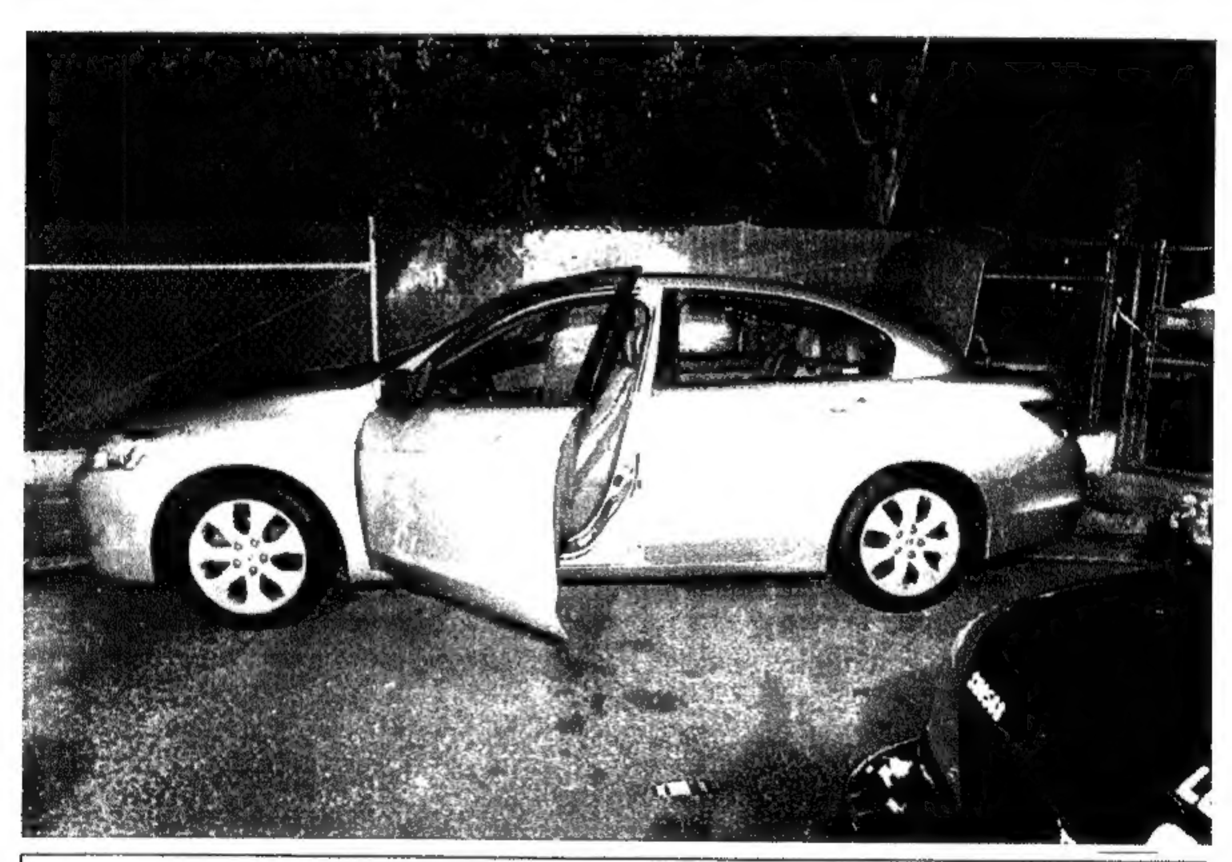
Open beer cans observed in rear seat of vehicle by Romero and Strosnider

Pena exited from the right rear passenger door of the vehicle. Pena was standing facing the rear quarter panel of the vehicle, with his back to Strosnider. As Strosnider attempted to control Pena's wrists and pat him down, Pena began to move away from him. Strosnider ordered Pena to comply, but Pena continued resisting.

[1] [redacted] stated she is the registered owner of the vehicle. She had picked Pena up at his home earlier in the day and had taken him to a friend's house. When the officers approached, [redacted] was attempting to take Pena home. Pena was intoxicated, and had refused to exit the vehicle because he wanted her to drive him to the liquor store. Approximately five minutes prior to the deputies' arrival, Pena had told her, "I want to die," and told her he did not care if he died just prior to the deputies' approach.

Romero, observing movement by Pena, believed the contact between Strosnider and Pena was escalating, and that Pena was attempting to free himself from Strosnider's grasp. Romero saw Pena moving his shoulders and actively resisting Strosnider. Romero could see that Strosnider and Pena had moved away from the vehicle, and were now closer to a fence. Strosnider became concerned that Pena was reaching for a weapon. Strosnider told Romero to broadcast their location and that he was involved in a fight. Romero heard Strosnider say, "Deputy involved in a fight." Romero felt that [redacted] and [redacted] were compliant, and ran towards the rear of the vehicle to assist Strosnider. Strosnider was struggling with Pena, and Pena was attempting to curl up in a ball with his hands hidden in front of him while crouched over. Pena's movements prevented Strosnider from gaining control of his hands.

As she got closer, Strosnider bumped into Romero and both he and Pena fell to the ground. Pena was face down on the ground, and Strosnider was struggling to keep him down as Pena attempted to get back up onto his feet.[2]



Area near rear of Honda where struggle and shooting occurred

[2] [redacted] having seen Pena resisting Strosnider, ran from the vehicle. She observed Pena bending over while tucking his hands against his waist. She heard a deputy telling Pena to relax several times. [redacted] was inside his residence and also heard a deputy say, "Relax."

As he continued to struggle with Pena, Strosnider suddenly observed that Pena had a gun in his hand. He then heard a single gunshot, and was uncertain at first whether or not he had been shot by Pena.[3] Strosnider told Romero to put out on the radio, "998."[4] Romero heard Strosnider yell, "Gun!" Romero drew her service weapon from her holster and observed that Pena had a gun in his hand. Strosnider was attempting to grab Pena's hands. As Strosnider and Pena struggled, Pena pointed the weapon directly at Romero. Fearing that Pena was about to shoot her or Strosnider, Romero fired three rounds from her service weapon in self-defense and in defense of her partner. Pena was struck by gunfire, and Romero and Strosnider were able to take him into custody.[5] Strosnider, who had been reaching across Pena at the time Romero fired, was also struck by one of Romero's rounds, and both deputies suffered abrasions as a result of their struggle with Pena on the ground.[6]

Paramedics were summoned and pronounced Pena dead at the scene. Strosnider was taken to a hospital and treated for one through and through gunshot wound to his right forearm.

Pena's firearm, a Taurus 9mm Luger caliber semiautomatic pistol, was recovered approximately three feet from his body.[7] The slide on the firearm was forward, the safety was off and there was one round in the chamber of the weapon, as well as two rounds in the magazine. The weapon was later tested and found to be functional. One fired shell casing from the weapon was also located near Pena's body. Three casings from Romero's service weapon were recovered near her position at the time of the shooting.

[3] Subsequent investigation determined that Pena did fire his weapon, but it did not strike Strosnider.

[4] "998" refers to a deputy involved shooting.

[5] Surveillance video recovered from near the location captured the shooting from two different angles. The Honda obscures the view of much of the incident, but the video does show Pena struggling first with Strosnider and then both deputies. Romero can be seen backing away from the altercation (which is blocked by the Honda), firing her service weapon, and then falling backwards to her knees. [redacted] also heard one gunshot from inside his residence, followed by a pause, before hearing several more rounds as did his neighbors, [redacted] and [redacted] having seen Pena struggling with Strosnider, also heard one round followed by a pause, and then additional gunfire.

[6] Strosnider told investigators he believed Pena was about to shoot Romero and then him at the time Romero fired her weapon. Strosnider believed Romero's actions saved his life.

[7] Neither [redacted] nor [redacted] were aware Pena had a gun prior to the shooting. [redacted] however, had seen Pena with the weapon the previous night.



Firearm Pena pointed at Deputy Romero

An autopsy was conducted on September 29, 2018, by Deputy Medical Examiner Doctor Timothy F. Dutra. Dr. Dutra observed three gunshot wounds on Pena's body, one to the right chest, one to the abdomen and one to the right upper arm. Dr. Dutra ascribed cause of death to the two gunshot wounds to Pena's torso. A toxicology screen conducted as part of the autopsy revealed Pena's alcohol levels at the time of his death to be .129 femoral blood, .131 heart blood and .153 vitreous.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

In the instant matter, after observing her partner struggle to gain control of Pena, Romero heard and then observed that Pena had a gun. Further, while in close proximity to her partner, Pena pointed the weapon at her. Under these circumstances, Romero's use of deadly force was reasonable both in self-defense and to protect the life of her partner.

CONCLUSION

We find that Deputy Romero acted lawfully in self-defense and in defense of others when she used deadly force against Ivan Pena. We are closing our file and will take no further action in this matter.